IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

INCOME TAX APPLICATION NO.109 OF 2002

The Commissioner of Income-tax,
Bombay City-III, Bombay. .. Petitioner.
Versus
The Bombay Presidency Radio
Club Limited .. Respondent.

Mr.A.M. Kotangale for the petitioner.

CORAM : H.L. GOKHALE, &
J.P. DEVADHAR, JJ.

DATED : 12TH DECEMBER, 2006.

P.C. :

1. Heard Mr.Kotangale in support of this application. The application raises following question of law.

> "Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the surplus arising to the assessee from letting out of rooms to its members is not chargeable to tax under the head 'Income from House Property' because of the Principle of mutuality but under the head 'income from other sources' ?"

2. The application is filed to challenge the order passed by the Income Tax Appellate Tribunal dated 31st August, 1992 in Reference Application No.219/92 concerning assessment of the Respondents for the A.Y. 1982-1983. The Respondent is a club and in the case of M/s.Chelmsford Club V/s. Commissioner of Income Tax [2000 (243) ITR 89], it has been held that the income from property of mutual concern is not

assessable. The question sought to be raised is concerning such property of mutual concern. Mr.Kotangale fairly states that in view of that decision, this question does not arise.

3. The application is, thus, rejected.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)